

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

Linda Hendrix,)	
)	
Plaintiff,)	
)	CIVIL ACTION NO.
vs.)	
)	1:19-cv-01773-TCB
The City of Atlanta, Georgia)	
and Marian Woods, in her)	
individual capacity & as)	
Administrator of the Civil)	
Service Board, City of)	
Atlanta,)	
)	
Defendants.)	

Deposition of JAMES MERRIWEATHER,
taken on behalf of the Plaintiff, pursuant
to the stipulations contained herein, before
Jo Tomoff Fischer, RMR, CCR No. B-924, at
55 Trinity Avenue, Suite 5000, Atlanta,
Georgia, on March 5, 2020, commencing at
the hour of 2:35 p.m.

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21
22
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- - -

1 (THE FOLLOWING TRANSCRIPT CONTAINS QUOTED
2 MATERIAL; SUCH MATERIAL IS REPRODUCED AS
3 READ OR SPOKEN.)
4

5 - - -
6

7 (IN THE FOLLOWING TRANSCRIPT, A DASH [--]
8 IS USED TO INDICATE AN UNINTENTIONAL OR
9 PURPOSEFUL INTERRUPTION OF A SENTENCE;
10 AN ELLIPSIS [...] IS USED TO INDICATE
11 HALTING SPEECH OR AN UNFINISHED
12 SENTENCE IN DIALOGUE, OR AN OMISSION
13 OF WORD[S] WHEN READING WRITTEN
14 MATERIAL.)
15

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17

18 (Thereupon, the court reporter disclosed that she
19 was there on behalf of Q&A Reporting Services,
20 Inc. In compliance with Article 10.B of the Rules
21 and Regulations of the Board of Court Reporting
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1 MS. SCHWARTZ: We'll go with the same
2 stipulations from this morning's deposition.

3 MR. MARTIN: Agreed.

4 JAMES MERRIWEATHER,
5 having been first duly sworn, was examined and
6 testified as follows:

7 EXAMINATION

8 BY MS. SCHWARTZ:

9 Q. Mr. Merriweather, would you spell your last
10 name?

11 A. Sure. M-E-R-R-I-W-E-A-T-H-E-R.

12 Q. And what is your home address?

13 A. 3599 Creekwood Lane, Smyrna, Georgia, 30082.

14 Q. And how long have you lived there?

15 A. My daughter is -- 17 years.

16 Q. And what is your cell phone number?

17 A. 404-447-2832.

18 Q. And what is your current position with the
19 city?

20 A. I am the director of labor and employee
21 relations.

22 Q. How long have you been in that position?

23 A. I've been in that position since 2017 in
24 interim, 2018 permanent.

25 Q. What month of 2017, do you know?

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1 A. I can't recall that.

2 Q. Who did you replace?

3 A. Prior to me was -- was a gentleman by the
4 name of Anthony Davis.

5 Q. And do you know the circumstances of his
6 leaving?

7 A. I do.

8 Q. And what was that?

9 A. He was -- there was some discrepancy about
10 his educational background.

11 Q. Was the position vacant at all before you
12 took it?

13 A. No.

14 Q. When you moved into that position in 2017,
15 who was the director of human resources?

16 A. The commissioner, you mean?

17 Q. Yes. I'm sorry.

18 A. The commissioner was Sherri Dickerson.

19 Q. And do you know the time period she served
20 in that role?

21 A. Approximately four months. Four to five
22 months.

23 Q. And why did she leave?

24 A. She retired from the city as far as I know.

25 Q. And who came after her?

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1 A. Commissioner Woods.

2 Q. And do you know when Ms. Marian Woods took
3 over as the commissioner?

4 A. I'm not sure of the exact -- of the exact
5 date.

6 Q. Do you know what was her last day on the
7 payroll?

8 A. I'm not certain of what her last day on the
9 payroll was.

10 Q. Do you know what was her last day at work?

11 A. It was around June, June or July, of 20 --
12 I'm not even sure of the year. 2019.

13 Q. Immediately prior to becoming the director
14 of labor -- I just got your title wrong.

15 A. Labor and employee relations, yes, ma'am,
16 correct.

17 Q. Labor and employee relations. What did you
18 do prior to that?

19 A. I was labor and employee relations manager
20 prior to that.

21 Q. And what responsibility did you have in that
22 old job?

23 A. Primarily to do investigations, consulting
24 with HR business partners, mediation.

25 Q. And what type of investigations?

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1 A. They were wide-ranging. Mostly they are
2 Title VII investigations.

3 Q. What is the overall responsibility of labor
4 and employee relations?

5 A. Our scope really is to resolve internal
6 complaints, we're appointed deescalation for
7 high-profile investigations, and we also have
8 responsibility for EEOC complaint resolution.

9 Q. What role, if any, do you have with regard
10 to the Civil Service Board?

11 A. My staff -- I have a person on my staff that
12 coordinates the Civil Service Board. So we act as the
13 administrative arm of the Civil Service Board to
14 assist them in setting up hearing dates and carrying
15 out their duties as a Civil Service Board. Ultimate
16 responsibility of that is under the commissioner of
17 HR.

18 Q. And when you say they "coordinate," other
19 than doing dates and maybe getting hearing folks
20 together --

21 A. Yes, ma'am.

22 Q. -- did they do anything substantively in
23 dealing directly with the issues before the Civil
24 Service Board?

25 A. No, ma'am.

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1 Q. How would you learn, or your office learn,
2 that there was going to be a hearing before the Civil
3 Service Board?

4 A. So the -- the process is that people come to
5 the HR commissioner's office, since we're an arm of
6 that as the -- as the labor and employee relations
7 office, they submit those Civil Service Board appeals
8 to our office.

9 Q. How do employees know that they're supposed
10 to submit an appeal to the civil service to your
11 office?

12 A. Per the process, when -- when an employee
13 who is a classified employee receives a notice of
14 final adverse action decision, with that they are
15 given the Civil Service Board appeal form and they're
16 told of their rights to file an appeal within a
17 certain period of time.

18 Q. And they're told where to go for filing --

19 A. They're told --

20 Q. -- the appeal?

21 A. -- where to go to file it, yes, ma'am.

22 Q. And was that process in effect in
23 December of 2017?

24 A. It was.

25 Q. And how about in the first half of 2018?

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1 A. It was.

2 Q. And since then?

3 A. It has been.

4 Q. And what personal involvement, to your
5 knowledge, does the deputy commissioner of human
6 resources have or the commissioner of human resources
7 have with regard to the Civil Service Board?

8 A. As far as the deputy commissioner, I don't
9 know what role as far as code. I don't think there's
10 any role for them. As far as the HR commissioner,
11 they are the ultimate responsibility. The Civil
12 Service Board is under their -- their purview.

13 Q. And what does that involve in having the
14 ultimate responsibility?

15 A. They sign off on the -- speaking of the
16 commissioner, the commissioner signs off on subpoenas
17 for the Civil Service Board. They're ultimately
18 responsible for decisions that are escalated with the
19 Civil Service Board.

20 Q. I'm sorry. They sign off on the decision of
21 whether to uphold or overrule the decision from the...

22 A. What I -- what I said was they -- they sign
23 off on subpoenas for witnesses for the Civil Service
24 Board.

25 Q. Okay.

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1 A. And they have ultimate responsibility for
2 the Civil Service Board.

3 Q. So if something's not operating correctly
4 with the Civil Service Board, they're responsible?

5 A. The Civil Service Board is their
6 responsibility, yes.

7 Q. Well, I know there have been times where
8 they have suspended hearings before the Civil Service
9 Board for multiple different reasons. And would that
10 be something that would have to be handled by the
11 commissioner of HR?

12 A. Could you clarify what you -- what you mean
13 by that?

14 Q. I know at times there has been too much work
15 for the Civil Service Commission and not enough
16 hearing officers and they've had to suspend.

17 Do you know who would be the ultimate person
18 to make the decision that they could suspend?

19 A. I don't know who -- who ultimately made that
20 decision. I know that the human resources
21 commissioner was involved in a pause in the board that
22 happened most recently that I'm aware of.

23 Q. And when was the most recent time?

24 A. That was January 2016. It was paused --

25 Q. It was what?

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1 A. It was paused in January of 2016.

2 Q. And do you have any idea how long it was
3 paused for?

4 A. It was paused until May of 2016 where it was
5 reinstated. And then in June was the first hearing
6 after that pause, June 2016.

7 Q. Who was the commissioner when it was
8 reinstated?

9 A. That was Commissioner Yancy. Yvonne Yancy.

10 Q. And are you familiar with when Ms. Yancy
11 left the commissioner's office?

12 A. I can't recall the exact date, no, ma'am.

13 Q. Did she leave with the change in the
14 administration, which would have been January 2018?

15 A. It probably was -- it probably was around
16 that time, yes, ma'am.

17 Q. Do you know why she left?

18 A. No, ma'am.

19 Q. Do you know whether there's any litigation
20 with Ms. Yancy?

21 A. I'm not aware, no, ma'am.

22 Q. When did you first start working for the
23 city?

24 A. January 7th, 2010.

25 Q. And who do you report directly to?

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1 A. I report directly to Commissioner Norman.

2 Q. You seemed to hesitate for a second. Is
3 there some functions you report to someone else?

4 A. No. I hesitate because we've had --

5 Q. So many?

6 A. -- a lot of ebb and flow, yes, ma'am.

7 Q. You had to think about who was in that job
8 right now, right? But at all times you report to the
9 commissioner --

10 A. Commissioner, yes.

11 Q. -- of human resources?

12 A. Of human resources.

13 Q. Now --

14 A. There have been times where I've had a
15 dotted line to a -- a deputy commissioner, but at this
16 time it's directly to Commissioner Norman.

17 Q. Currently there's a deputy commissioner
18 position vacant. Do you know how long it's been
19 vacant?

20 A. I'm not sure.

21 Q. Do you know what responsibility that
22 position handles within human resources?

23 A. Normally there're departments that --
24 normally there are departments that -- or department
25 heads as far as within HR, HR directors, that report

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1 to that -- to various deputy commissioners. And they
2 also take on special projects at the request of the
3 commissioner.

4 Q. There's been some talk about HR partners.
5 Can you explain what that is?

6 A. So at one time the -- the HR directors were
7 housed and operated out of the different departments.
8 Now they were -- under Commissioner Yancy they were
9 consolidated, but they still serve under the
10 department.

11 So, for example, if you have -- there's an
12 HR director that's assigned to work with watershed,
13 department of watershed, so we would consider that
14 person an HR business partner.

15 Q. And in 2017, did that individual work out at
16 watershed?

17 A. They're housed different places. Yeah, I
18 believe in 2017 they still would have been housed at a
19 site with their business part -- with -- with the
20 department.

21 Q. And what about with regard to the airport?
22 Who was the commissioner of HR for the airport in
23 2017?

24 A. Probably was Jim -- I -- I don't recall
25 exactly, but I believe it was Jim Beam.

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1 Q. Did you ever work directly with Mr. Beam?

2 A. Yes, ma'am.

3 Q. And in what capacity?

4 A. Mr. Beam had several positions and I worked
5 with him in several positions. He was the deputy
6 commissioner of HR at one point. He became the HR
7 director out at aviation. So I worked with him in
8 both capacities in my role.

9 Q. Do you know when he left?

10 A. I don't recall when he left.

11 Q. Do you know why he left?

12 A. No, I don't know why he left.

13 Q. Do you know where he's working now, if --

14 A. I do not.

15 Q. -- you know?

16 A. Huh-uh (negative).

17 Q. What is your understanding of how the HR
18 directors and their staff interact with human
19 resources for the city?

20 A. Could you explain what you mean by that
21 question? I mean, how --

22 Q. What functions does HR at the airport --

23 A. Uh-huh (affirmative).

24 Q. -- when they were at the airport because
25 your -- is it your testimony they're no longer at the

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1 airport?

2 A. No. They're still at the airport.

3 Q. So the HR employees working at the airport,
4 what roles did they have versus HR home office?

5 A. So every HR business partner that works
6 within the department, including aviation, handles the
7 HR functions for that particular department. So
8 there's usually somebody that's assigned to recruit
9 for the -- for the airport. There's someone assigned
10 to handle other labor relations that we don't -- that
11 my office doesn't handle -- hiring, dismissals,
12 disciplinary actions, training. So for each
13 department it's the same. And aviation wouldn't be
14 different. That HR team would handle all the HR
15 functions for that particular department.

16 Q. And with regard to dismissals --

17 A. Uh-huh (affirmative).

18 Q. -- what's the role of the HR partner?

19 A. It's their responsibility to follow the
20 disciplinary process and for classified employees to
21 issue disciplinary action as -- as appropriate.

22 Q. Then is one of the policies the progressive
23 discipline policy?

24 A. It is.

25 Q. And they're supposed to follow that?

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1 A. They are.

2 Q. And is there a formal document when you are
3 going to write an employee up that's considered to be
4 a written warning?

5 A. That written warning is -- it -- it varies
6 across the city, what -- the format it takes. But,
7 yes, they -- there is a form that they would use at
8 the airport, yes.

9 Q. And where would someone find that form?

10 A. Who would -- meaning who?

11 Q. If I were trying to get ahold of a copy of
12 that form, what department would I go to or who would
13 I talk to?

14 A. Well, the form is used by HR so you would go
15 to HR to get that particular form.

16 Q. So are you aware of any disciplinary action
17 form that exists for the city generally or for the
18 department of aviation generally where you can tell us
19 the name of the form?

20 A. The forms that -- as far as discipline that
21 I can tell you about would be when it becomes to
22 adverse action.

23 Q. And what kind of form is that?

24 A. So there would be a notice of proposed
25 adverse action. That's a standard form. There would

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1 be a notice of final adverse action. And then there
2 would be a Civil Service Board appeal form.

3 Q. Who prepares the notice of proposed adverse
4 action?

5 A. The HR business partner would prepare that
6 notice of final ad -- adverse action with -- in
7 conjunction with the supervisor or manager.

8 Q. Talking strictly about the department of
9 aviation --

10 A. Uh-huh (affirmative).

11 Q. -- and turning your attention to December of
12 2017, who would have been in the position to handle
13 creating notices of proposed adverse actions?

14 A. That I don't know for that particular date
15 and group.

16 Q. Would it have been one person or more than
17 one person?

18 A. It could have been more than one person.

19 Q. How does an individual HR partner know to
20 prepare a notice of proposed adverse action?

21 A. So the notice of proposed adverse action
22 would really -- it's a responsibility of the super --
23 individual supervisor or manager. The HR business
24 partner would assist that supervisor or manager in
25 preparing that form.

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1 Q. And how do individual managers know that
2 they're required to fill out this notice of proposed
3 adverse action?

4 A. That's part of the -- the municipal code.
5 So the process for that is outlined in the municipal
6 code.

7 Q. Do you happen to know what section?

8 A. So it would be section 114 and it would
9 be -- they would have to have a cause for action,
10 which is 528, so 114-528. They would also follow the
11 procedure for adverse action, which I believe is 527.

12 Q. And whose responsibility was it to prepare
13 the notice of final adverse action?

14 A. In this case, I...

15 Q. In the department of aviation, just
16 generally.

17 A. In general, the -- again, the HR BP would
18 assist the supervisor or manager in preparing that
19 notice of final adverse action. It would then be
20 signed off on by the -- by that supervisor and by the
21 department head in -- in -- in aviation's case, it
22 would be the general manager.

23 Q. Are there any circumstances you're aware of
24 that a classified employee does not have to be given a
25 notice of final proposed adverse action?

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1 A. None that I'm aware of.

2 Q. Is there any circumstances in which a
3 classified employee does not have to be told of their
4 appeal rights to the Civil Service Commission?

5 A. None that I'm aware of, no, ma'am. Oh, in
6 the previous question, it -- you -- you asked me about
7 the code section. There's another -- there's two
8 other portions of that section 114. 529 and 530 also
9 discuss imposing those actions.

10 Q. Showing you Plaintiff's Exhibit No. 7. Can
11 you identify that?

12 A. It's an employee acceptance of unclass -- of
13 an unclassified position.

14 Q. And for whom is that form used at the
15 City of Atlanta?

16 A. Normally it's used for employees that are
17 moving from a -- a classified position to an
18 unclassified position.

19 Q. But can it also be at the time they're hired
20 if they're into an unclassified position?

21 A. It can be at the time of hire as well, yes,
22 ma'am.

23 Q. So if a person is moving from a classified
24 position to unclassified, who generates Plaintiff's
25 Exhibit No. 7?

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1 A. If they're moving, normally the HR -- HR BP
2 would -- would generate this form.

3 Q. And when you say that, is it the top person
4 in the department or is somebody working under them?

5 A. Depending on why they're -- they're moving
6 from un -- classified to unclassified, it could be the
7 top person, it could be someone else underneath them.

8 Q. Are you familiar with how long either that
9 form or a form similar to it has been used at the
10 city?

11 A. As far as I know, it was -- it would
12 probably be after February 13th of '98.

13 Q. What happened on February 13th of '98?

14 A. I just know per the code that's the date
15 that the classified/unclassified service was -- was
16 set up and employees were designated into those
17 categories.

18 Q. And isn't it true that if someone was on
19 February 12th --

20 A. Uh-huh (affirmative).

21 Q. -- of 1998 a classified employee --

22 A. Uh-huh (affirmative).

23 Q. -- it would only switch to an unclassified
24 position potentially if they were to leave the
25 position they were in and take another position?

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1 A. That I'm not aware of.

2 Q. Who would be responsible for handling any
3 kind of change of classification as a result of this
4 February 13th, '98...

5 A. It would be in HR, but I'm not sure who
6 would have that -- it wouldn't be labor relations'
7 responsibility.

8 Q. Now, you're aware that Linda Hendrix was a
9 classified employee when she was hired?

10 A. I had -- I am from my research for this,
11 yes.

12 Q. Let's talk about your research for this.
13 What have you done to prepare for today's deposition?

14 A. So I've reviewed the code, reviewed
15 policy -- standard policy and procedure, I've met with
16 the city attorneys.

17 Q. And when you say "the city attorneys,"
18 anyone other than who's in this room?

19 A. No, I don't -- I don't believe so, no.

20 Q. Have you had any meetings with Mr. Norman
21 about this case?

22 A. No.

23 Q. When Mr. Norman was in the city attorney's
24 office, did you deal with him in personnel matters?

25 A. Yes. There were times where we -- where we

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1 dealt with things.

2 Q. And would it usually be with regard to
3 EEO-type issues?

4 A. It'd be -- it'd be in regards to
5 integrity-line-type issues, compliant --
6 law-compliance-type issues.

7 Q. So you said you reviewed the code and you
8 talked to the city attorneys.

9 A. Yes.

10 Q. Did you look at any documents beside the
11 code?

12 A. We did -- I did look at the documents --
13 these documents you have in front of you, the --
14 forgive me. I don't -- I don't know what these are
15 called, but...

16 Q. Plaintiff's Exhibit 1, I will show you --

17 A. Okay.

18 Q. -- is that the document?

19 A. Yes.

20 Q. Which is the notice of deposition.

21 A. Yes.

22 Q. And then there was a first amended notice of
23 deposition?

24 A. Yes. Those, yes, ma'am.

25 Q. Did you look at any documents this morning?

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1 A. Besides the code, no. And these -- and
2 these depositions.

3 Q. Have you looked at Ms. Hendrix's personnel
4 file, either now or at any time since --

5 A. Yes.

6 Q. When's the last time you would have reviewed
7 that?

8 A. Maybe two weeks ago.

9 Q. What were the circumstances of your
10 reviewing it?

11 A. I had pulled the file in -- in the past. So
12 a request was made to me to pull her file. So when I
13 met with the city attorneys, I had that as something
14 that I had pulled at the time. It was not the most
15 recent version of it, but it was what was pulled at
16 the time it was requested.

17 Q. Do you have a rough idea of when you first
18 pulled her file?

19 A. It must have been a -- more than a year ago.

20 Q. Would it have been after the lawsuit was
21 filed?

22 A. That I'm not aware.

23 Q. So when did you first become aware of the
24 lawsuit?

25 A. When I was contacted for this deposition.

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1 Q. So would it have been in 2020?

2 A. Yes, ma'am, 2020. Yes.

3 Q. And so in 2019, you had no role in dealing
4 with this lawsuit?

5 A. No, ma'am.

6 Q. So the first time you were contacted to pull
7 her file would have been in 2020 as well?

8 A. No. It was -- there was -- I went back
9 to -- to see what I had on file. And what I had was
10 her personnel file and a request that I had made to
11 someone to -- to pull the file that -- up in our
12 business office. I'm not even sure why. I had no
13 other notes as to why.

14 Q. Okay. When you pulled that file --

15 A. Uh-huh (affirmative).

16 Q. -- did you see that there were several
17 documents that showed that Ms. Hendrix was a
18 classified employee?

19 A. Yeah, there were some documents that showed
20 that she had been classified employee.

21 Q. And did you notice that there were no forms
22 in which she waived her rights by moving into a
23 classified position, such as document 7?

24 MR. MARTIN: Objection to form.

25 I mean, you may answer.

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1 THE WITNESS: I -- I did not see this --
2 this -- a form like this or this form in that
3 file.

4 BY MS. SCHWARTZ:

5 Q. Have you looked at the personnel file for
6 Ms. Brown, Marcia Brown?

7 A. No.

8 Q. Did you see anything in the personnel file
9 that you pulled regarding Ms. Hendrix that showed that
10 she was an unclassified employee?

11 A. Yes.

12 Q. And what was that?

13 A. It was a TAD that showed -- I believe it was
14 a termination TAD. The -- the TAD showed her as an
15 unclassified employee.

16 Q. And are you referring to Plaintiff's
17 Exhibit No. 4?

18 A. I believe this is it, yes, ma'am.

19 Q. And what's the date on that?

20 A. The date is March 21st, 2018, effective
21 date.

22 Q. Give me one second. Let's go to received
23 June 4th, 2008, which is sort of a big block. Go down
24 that...

25 MS. COUNCIL: Can you restate, just for

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1 purposes --

2 MR. MARTIN: Oh, right where?

3 MS. COUNCIL: -- of clarification,
4 Ms. Schwartz, it's 2018? We just want to
5 make sure the date's properly reflected on
6 the record.

7 MS. SCHWARTZ: This is --

8 MS. COUNCIL: This is June 4th, 2018?

9 MS. SCHWARTZ: Yes.

10 MS. COUNCIL: You said 2008.

11 MS. SCHWARTZ: I'm sorry.

12 MS. COUNCIL: Just want to make sure the
13 record is clear.

14 BY MS. SCHWARTZ:

15 Q. 2018. And it's got the number 0226 as a
16 Bates stamp number.

17 Can you see whose signature is in the
18 received area?

19 A. I can't tell whose signature that is, no,
20 ma'am.

21 Q. Do you know whose signature is at the bottom
22 left dated 6-4 or 6-1, I'm not sure, and it looks like
23 a J something?

24 A. I'm not familiar with that -- with that
25 signature. I was told whose it might be, but I'm --

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1 I'm not familiar with whose -- whose it is.

2 Q. Who told you whose it might be?

3 A. Ms. Kirkland, Renita Kirkland.

4 Q. And who did she say it might be?

5 A. Jim Beam.

6 Q. And on the bottom right, it says TAD process
7 date --

8 A. Uh-huh (affirmative).

9 Q. -- 6-5-18. And can you tell whose initials
10 those are?

11 A. I can't.

12 Q. When did you first talk to anyone about this
13 document?

14 A. In our meetings with -- with the -- the city
15 attorney.

16 Q. And who was in the meetings with the city
17 attorney besides yourself?

18 A. The city attorneys present in the room right
19 now and Renita Kirkland, Ms. Brown, and Alisha --
20 Alisha Williams.

21 Q. Ms. Williams being an employee of the city
22 attorney's office?

23 A. Yes.

24 Q. And were you shown any documents during that
25 meeting?

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1 A. The documents we were shown were the
2 personnel file and -- because I brought the personnel
3 file, and then -- that personnel file, and then these
4 documents that you've presented to me. These two,
5 notice of deposition.

6 Q. Which is Plaintiff's Exhibits 1 and 2, just
7 for the record.

8 When you brought over the personnel file, it
9 did not have any disciplinary action forms in it, did
10 it?

11 MS. COUNCIL: Objection to the form of
12 your question.

13 THE WITNESS: I can't -- I can't recall
14 any disciplinary documents in it.

15 (Mr. Martin exited the room.)

16 BY MS. SCHWARTZ:

17 Q. Did you see any notices that were given to
18 employees that we've talked about, notice of proposed
19 adverse action or final adverse action?

20 A. I don't recall those being as part of that
21 file.

22 Q. Are there any other documents that you
23 looked at directly with the city attorneys and these
24 other four individuals?

25 A. This document was a part of that file, this

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1 TAD.

2 Q. What is your understanding of why a TAD
3 document for Ms. Hendrix who was terminated on
4 December 27th of 2017 would be generated on 6-5 of '18
5 or thereabouts?

6 MS. COUNCIL: I'll object to the form of
7 that question. I think it's also misstating
8 the facts of the case. According to the
9 records, she was not terminated in December
10 2017.

11 MS. SCHWARTZ: We disagree with you on
12 that so...

13 MS. COUNCIL: Well, I think it's a
14 mischaracterization of the facts to the
15 witness.

16 MS. SCHWARTZ: I will rephrase the
17 question.

18 BY MS. SCHWARTZ:

19 Q. You are aware that the last day that
20 Ms. Hendrix worked was December 27th of 2017?

21 A. That part I'm not aware of. I'm not aware
22 of the details of that part of her termination.

23 Q. What reason would there be for any employee
24 to not get a TAD document entered into their file for
25 five months after their last day worked?

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1 A. That wouldn't be my area of expertise on
2 TADs.

3 Q. So you have no idea why this particular
4 document was created?

5 A. I couldn't answer that. Only that -- that
6 it was a dismissal.

7 Q. And you don't know who created the document?

8 A. No, ma'am.

9 Q. And what did Ms. Kirkland say about who she
10 thought created the document?

11 MS. COUNCIL: Asked and answered.

12 But you may answer.

13 I think he's already answered that.

14 THE WITNESS: I believe Jim Beam. She
15 said Jim Beam was this signature here, that
16 she believed that. Who created the document,
17 I don't recall that she had a specific answer
18 of who -- who did it. She had possibilities
19 of people that could have created it.

20 BY MS. SCHWARTZ:

21 Q. Who were the other possibilities?

22 A. The executive assistant to the -- to the HR
23 director, Mr. Beam.

24 Q. Was that Ms. Brown?

25 A. Ms. Cooper I think her name is. Chyna --

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1 Q. Chyna Cooper?

2 A. -- Cooper.

3 Q. Did she have any other possible suggestions?

4 A. She named another person, but I can't recall
5 who that was.

6 Q. And you have no knowledge as to whether the
7 information contained on this document is accurate, or
8 not, do you?

9 A. No, ma'am. That's not my area.

10 Q. Have you done anything to investigate how
11 this document came to be in existence?

12 A. Huh-uh (negative). I've done no
13 investigation on this particular matter.

14 Q. Are there any discussions that you've had
15 with Ms. Kirkland where the city attorney was not
16 present?

17 A. Sure. We waited in the lobby together.

18 Q. No. I mean, about this particular --

19 A. Oh, no, ma'am.

20 Q. -- lawsuit. What about Ms. Brown, any
21 conversations with her separately?

22 A. No, ma'am.

23 Q. How long was your meeting with the city
24 attorneys and Ms. Kirkland and Ms. Brown?

25 A. We met on a couple of different occasions.

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1 They were probably a couple of hours each.

2 Q. And other than Plaintiff's Exhibit 4, did
3 you see a single document that showed that Ms. Hendrix
4 was unclassified?

5 A. I can't recall seeing any other documents
6 besides -- besides this one that -- that had her as
7 class -- unclassified.

8 Q. Assuming that at the time she was sent home
9 that Ms. Hendrix was a classified employee, should she
10 have received a notice of adverse action?

11 MS. COUNCIL: Could you clarify that
12 question a little bit more? When you say
13 "sent home," give us a specific time.

14 BY MS. SCHWARTZ:

15 Q. Suspended on December the 27th of 2017.

16 A. If she was a classified employee, she
17 would -- we would follow the procedure for a
18 classified employee. She would have gotten a notice
19 of proposed adverse action.

20 Q. And if she were to still be terminated, she
21 would have gotten a final notice?

22 A. Yes.

23 Q. And then if the decision were made to
24 terminate her, would she have been provided
25 information about filing an appeal?

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1 A. Yes.

2 Q. Have you had any discussions with anybody,
3 other than counsel, as to whether or not Ms. Hendrix
4 attempted to file appeals with the Civil Service
5 Commission?

6 A. Yes. I spoke with my CSB coordinator to see
7 if there was an appeal that was filed.

8 Q. And what was the name of your CSB
9 coordinator?

10 A. Kandice Harmon.

11 Q. Harmon?

12 A. Harmon, H-A-R-M-O-N. Kandice with a K,
13 K-A-N-D-I-C-E.

14 Q. And what specifically is her job title?

15 A. She -- her job title is employee relations
16 specialist. She coordinates the -- the CSB hearings
17 and does the scheduling for those. And -- and other
18 duties. But as it relates to this, those are her
19 duties. She's a coordinator for the CSB.

20 Q. And what did she tell you?

21 A. No, there was no -- there was no appeal that
22 was -- that was submitted.

23 Q. And where is she located physically?

24 A. Suite 2170 at City Hall.

25 Q. She's in your...

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1 A. In my suite, yes, ma'am.

2 Q. Did you talk to anybody else about any
3 appeals that Ms. Hendrix may have submitted?

4 A. No, ma'am.

5 Q. Have you had any discussions with anyone
6 other than counsel about whether or not Ms. Hendrix
7 was a classified or unclassified employee?

8 A. No, ma'am.

9 Q. Have you done any independent research to
10 determine if she was a classified or unclassified
11 employee?

12 A. No, ma'am.

13 (Mr. Martin entered the room.)

14 BY MS. SCHWARTZ:

15 Q. Other than the personnel file that you
16 brought with you to the meeting with counsel --

17 A. Yes, ma'am.

18 Q. -- have you looked for any other documents
19 with regard to Ms. Hendrix?

20 A. So Ms. Harmon, we checked our hard copy
21 files, electronic submissions, just to -- and our
22 spreadsheets on submissions just to make sure there
23 was no -- nothing that we had missed. And we --
24 there's nothing we found.

25 Q. What were you looking for?

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1 A. Just looking for the CSB, Civil Service
2 Board, appeal form.

3 Q. The appeal form. Did you check the
4 commissioner's email?

5 A. I wouldn't have access to that, no, ma'am.

6 Q. So that was nobody checked that, to your
7 knowledge?

8 A. Yeah, I -- I am not aware.

9 Q. Were there some employees that were
10 classified employees before February 13th of 1998 who
11 then changed to become unclassified employees at some
12 later date?

13 A. There were.

14 Q. And were those individuals asked to fill out
15 a form similar to Plaintiff's Exhibit 7?

16 A. That is our general practice. It's not --
17 it's not necessarily a policy, but that has been the
18 practice, yes, ma'am.

19 Q. How can you tell if an employee has moved
20 into a vacant position?

21 A. That would be outside of my area of
22 expertise.

23 Q. I'm showing you Plaintiff's Exhibit 5, which
24 is called the turnaround document.

25 A. Uh-huh (affirmative).

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1 Q. Can you tell me how long either that
2 document or something similar to it has been used?

3 A. Again, I'm not -- I'm not -- it's been here
4 as long as I've been here, since 2010.

5 Q. That's --

6 A. Prior to that, I don't -- I don't know.

7 Q. And what is your understanding of the
8 purpose of such a document?

9 A. My understanding is that it's used to make
10 HR changes in title, position, salary, et cetera.

11 Q. Are you aware of any employees who moved
12 from classified positions to unclassified positions
13 and retained some rights to hearings?

14 A. I'm not aware of any employees specifically.
15 I have heard of it, yes.

16 Q. Are you familiar with the policy or not
17 particularly?

18 A. Yes, I'm familiar with the policy.

19 Q. And what is the policy?

20 A. There's a policy that some classified
21 employees are moved to unclassified positions, but
22 they retain their civil service rights.

23 Q. And what determines if they will or will not
24 retain their civil service rights?

25 A. That I don't know. Don't know what the --

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1 that criteria is.

2 Q. I'm showing you Plaintiff's Exhibit No. 3.

3 A. Uh-huh (affirmative).

4 Q. If you could... Towards the bottom of the
5 page, there is the reference to all positions in
6 classified service at pay grade 19 and above that
7 become vacant on or after February 13th, 1998, will be
8 transferred to unclassified.

9 What is your understanding of a position
10 becoming vacant?

11 A. Again, not my area of expertise, but my
12 understanding of it is that -- that if a position
13 is -- that if a position was going to be filled after
14 that date at that pay grade, 19 and above, that that
15 position would be termed an unclassified position.

16 Q. So it wouldn't necessarily impact the person
17 in the position at the time unless it was going to be
18 opened up as a new position, correct?

19 A. That I don't know. That's -- that I don't
20 know.

21 Q. Who would be able to answer that question?

22 A. It would review -- it would depend on a
23 review of the ordinance attached with this, but the
24 HR BP may be able to answer that particular question
25 or the -- the deputy commissioner.

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1 Q. The deputy commissioner?

2 A. Uh-huh (affirmative).

3 Q. What about the commissioner?

4 A. Or the commissioner.

5 Q. If an employee is terminated and that

6 employee is not in a classified position --

7 A. Uh-huh (affirmative).

8 Q. -- what rights, if any, do they have with
9 regard to either notice or a hearing?

10 A. If they are an unclassified employee,
11 they're considered in -- in Georgia at will. And they
12 can be separated -- either the employee or the
13 employer can separate at will, with -- with or without
14 cause.

15 Q. And is the policy of the City of Atlanta to
16 separate an employee without telling them why they're
17 being separated?

18 A. The policy simply says they're at will. And
19 if they -- each party, each side, has the right to
20 separate employment.

21 Q. That's what the written policy says. I'm
22 asking about the actual policy. Is it the policy --

23 A. The practice or do you mean --

24 Q. Yes, practice, if you will. Is it the
25 practice to tell the employee why they are being

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1 terminated?

2 A. It's the practice to have progressive
3 discipline, it's the practice to have performance
4 evaluations. But as far as separation, it's our
5 practice to -- it's at will for unclassified
6 employees.

7 Q. Now, doesn't the State of Georgia require
8 that you give them a separation notice?

9 MS. COUNCIL: Objection to the form of
10 the question.

11 THE WITNESS: They do require that.

12 BY MS. SCHWARTZ:

13 Q. And does the city fill in a reason for
14 termination?

15 A. It does.

16 Q. And do they fill in a date for termination?

17 A. They do. The reason doesn't have to be --
18 sometimes the reason is termination.

19 Q. Do you have any knowledge about who notified
20 Ms. Hendrix that she was terminated?

21 A. I don't.

22 Q. If an employee is unclassified but had
23 reserved rights to a hearing, what kind of information
24 would they be provided with at the time of
25 termination?

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1 A. Could you clarify what you mean by reserve
2 rights to a hearing?

3 Q. Yes. We talked earlier about there were
4 some employees that were moved into an unclassified
5 position but retained rights to a Civil Service Board
6 hearing.

7 A. Yes.

8 Q. How would they be notified that they had
9 those rights to a hearing?

10 A. If they had retained rights, then they would
11 be considered the same way -- or have the same rights
12 as a classified employee. So they would get -- go
13 through the same process. They'd get a -- a notice of
14 proposed adverse action, they'd have a -- a show-cause
15 hearing where they can respond, they'd get a notice of
16 final adverse action with an appeal form and told of
17 their rights to file a Civil Service Board appeal.

18 Q. Are there any circumstances under which
19 you're aware that the policy permit a classified
20 employee to be terminated without that process of the
21 notice and the right to a hearing --

22 A. For classified employees, no.

23 Q. For classified employee.

24 A. Not that I'm aware of, no, ma'am.

25 Q. What if at the time that an employee is

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1 terminated the supervisor isn't sure if he or she, the
2 subordinate, is classified or not? What are they
3 supposed to do?

4 A. Normally they would check the system of
5 record at that time. At the time I'm not sure whether
6 it was ATL Cloud or Oracle. Probably Oracle. You
7 would check the Oracle system to see if the -- what
8 the status of the employee was. If you were uncertain
9 about the system, you could check the personnel file
10 and the personnel file should have that -- that status
11 recorded there as well.

12 Q. So you're not sure when Oracle was used or
13 ceased to be used?

14 A. I'm not a hundred percent certain, no,
15 ma'am.

16 Q. I'm showing you what's previously been
17 marked as Plaintiff's Exhibit 8.

18 A. Okay.

19 Q. So if you would look --

20 A. This is 3, 5, 7, 4. 3, 4, 5, and 7.

21 Q. No, that's not it.

22 MS. SCHWARTZ: Do you have Plaintiff's
23 Exhibit 8? That's that one. Do you mind
24 sharing that with the witness for now and
25 we'll look for it.

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1 MR. MARTIN: No problem.

2 MS. SCHWARTZ: Thank you.

3 BY MS. SCHWARTZ:

4 Q. Looking at Plaintiff's Exhibit 8, which is
5 two pages, does this appear to be a screenshot from
6 Oracle or one of the other programs that you
7 referenced?

8 A. It looks like a screenshot from Oracle. It
9 could be.

10 Q. And how would such a document get generated?

11 A. In the old Oracle system, it's not that
12 advanced. You would do a -- you would do a -- a print
13 from -- there's a print screen from this or a -- a
14 pop-up print to print out this page.

15 Q. If you turn to the second page --

16 A. Uh-huh (affirmative).

17 Q. -- does that appear to be just an enlarged
18 version of the previous page?

19 A. It appears to be.

20 Q. Have you ever had occasion to pull up on
21 your screen the Oracle program while also having your
22 Gmail open?

23 A. I haven't, no, but -- no, ma'am.

24 Q. Do you have any knowledge as to whether or
25 not the information contained in this document is

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1 correct?

2 A. No, ma'am.

3 Q. Have you seen this before?

4 A. Have I read what you're -- what you're --
5 have here, no, ma'am.

6 Q. So you didn't see this earlier today?

7 A. I did see this at a distance, but I
8 didn't -- I didn't read it.

9 Q. Did you discuss it with the deputy
10 commissioner?

11 MR. MARTIN: Objection to the form.

12 THE WITNESS: No, ma'am, I didn't. No,
13 ma'am, I didn't discuss it with the deputy
14 commissioner.

15 BY MS. SCHWARTZ:

16 Q. What is the purpose of the City of Atlanta's
17 performance appraisal system?

18 A. It's -- it's to -- it's to evaluate
19 performance. It's -- it's used -- at times it's been
20 used to validate whether someone's gonna get a -- a
21 raise or not. It's also to point out if there's poor
22 performance and look at opportunities to improve that
23 performance.

24 Q. Have you had an opportunity to look over
25 Ms. Hendrix's performance reviews?

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1 A. I haven't, no, ma'am. I'll clarify that I
2 have seen them, but I have not reviewed them.

3 Q. I understand. Thank you. If you would look
4 at Plaintiff's Exhibit No. 2.

5 A. Yes, ma'am.

6 Q. Yes. And look at number 14.

7 A. Yes, ma'am.

8 Q. What's the city's policy and procedure in
9 the time frame of December 2017 of the role that a
10 supervisor or department head plays in providing a
11 terminated employee with the --

12 MR. MARTIN: I'm sorry. Which number
13 are you on again?

14 MS. COUNCIL: Which number?

15 THE WITNESS: 14.

16 MS. SCHWARTZ: 14.

17 MS. COUNCIL: Okay.

18 MR. MARTIN: Thank you.

19 THE WITNESS: So for -- for classified
20 employees?

21 BY MS. SCHWARTZ:

22 Q. You can tell me that first.

23 A. Okay. So for -- for classified employees,
24 the process is that a supervisor with the -- with the
25 help of HR would come up with a notice of proposed

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1 adverse action that would list the cause for action,
2 from 114-528, and they complete that form and they'd
3 have a notice of proposed -- proposed adverse action
4 meeting.

5 In that meeting, the employee, classified
6 employee, could bring a representative with them.
7 They would -- the supervisor would present that
8 particular notice of proposed adverse action. With
9 that action it is signed off on by the department head
10 not -- noting that that notice of proposed action is
11 going forward.

12 After that notice of proposed -- proposed
13 adverse action--or NPAA--is presented to the employee
14 and they're given that formal notice, then they have
15 five days from that to actually respond to that notice
16 of proposed adverse action.

17 Five business days from that they -- they
18 respond. Again, they can bring a representative, the
19 supervisor's there. And the idea is that the
20 department head or someone that can make a decision
21 that they designate is present in that next meeting to
22 see -- to have the -- the employee present their --
23 their case. So it's a show-cause hearing.

24 Once that's done, three days from that, then
25 there is a notice of proposed adverse action meeting

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1 where either the proposed action is modified,
2 dismissed altogether, or confirmed.

3 At that meeting, that -- that final notice
4 of -- final adverse action meeting, they're also given
5 their rights to appeal that -- that decision through a
6 Civil Service Board appeal form. And they're told
7 where to take that and how to appeal it.

8 That form has to be submitted the later of
9 five days from the effective date of the action or
10 five days from that notice of final adverse action
11 meeting, whichever is later.

12 Q. Was this practice followed in relation to
13 plaintiff?

14 A. I don't believe that -- that it was.

15 Q. And do you know why not?

16 A. My understanding is that she was a
17 unclassified employee. That being the case, she would
18 be at will and this process would not apply to her.

19 Q. And is that understanding obtained from
20 anyplace other than counsel?

21 MS. COUNCIL: Objection to the form of
22 the question.

23 THE WITNESS: From counsel is where I
24 would -- would -- would know this whole
25 situation from, yes, ma'am.

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1 BY MS. SCHWARTZ:

2 Q. But is there anything -- have you talked to
3 anyone else who has told you that she was an
4 unclassified employee?

5 A. In our meetings that we had, HR -- HR
6 business partner confirmed that and also showed me the
7 exhibit that this -- the exhibit with the dismissal
8 with the unclassified status on the dismissal form,
9 the TAD.

10 Q. And the HR partner you're talking about, who
11 told you that?

12 A. Renita Kirkland and the manager Ms. Brown
13 and in the document from the file.

14 Q. What practice is in place for ensuring that
15 the procedure is followed with a classified employee?

16 A. Can you clarify what you -- what you mean by
17 that?

18 Q. Okay. The procedure of giving notice
19 pre-termination, post-termination, and information
20 about the right to a hearing.

21 A. So for a classified employee, they can't go
22 forward with the process without the NPAA. So no
23 action can be taken until the process is followed. No
24 adverse action.

25 Q. Well, can't the supervisor just put it

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1 through?

2 A. He can. He had -- the supervisor can submit
3 a notice of proposed adverse action. They have to --
4 it has to go through that process where they get to
5 respond. There's a notice of final adverse actions.
6 There's stipulations in the code that say that the
7 process has to be followed a certain way and that
8 there is a timeline between when the -- between the
9 notice of proposed adverse action and the actual
10 effective date of the adverse action.

11 If anything is in violation of that, then
12 that would come out in the Civil Service Board appeal.

13 Q. But what if they didn't ever get notified
14 that they had the Civil Service Board to appeal to?

15 A. No action can be taken against somebody who
16 is -- who's a classified employee without that.

17 Q. Have you had any involvement in
18 investigating behavior of Mr. Beam while he was
19 working for the City of Atlanta?

20 A. No.

21 Q. I don't mean investigation may have happened
22 while he was there, but --

23 A. Where I was involved in --

24 Q. -- related to his employment with the city.

25 A. No, ma'am.

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1 Q. Are you familiar with any legal action
2 that's going on with regard to that?

3 A. No, ma'am.

4 (Marked for identification purposes,
5 Plaintiff's Exhibit No. 9.)

6 BY MS. SCHWARTZ:

7 Q. Can you identify this document?

8 A. Am I familiar with this document? I don't
9 know what -- it looks like a TAD from a previous time
10 period, but I'm not familiar with it, no, ma'am.

11 Q. But this shows that Ms. Hendrix was a
12 classified employee at least as of 4-7-98; is that
13 correct?

14 A. From what I see here, it does show that,
15 yes, ma'am.

16 Q. And it shows that she was made a permanent
17 employee on this date without changing her position,
18 correct?

19 A. That's what it seems to say, yes, ma'am.

20 Q. And do you have any independent knowledge of
21 any new position that she moved into after this date,
22 4-7 of '98?

23 A. I've been told that she moved into another
24 position subsequent to this date, moved her from
25 classified to unclassified.

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1 Q. Who told you that?

2 A. Ms. Kirkland and Ms. Brown.

3 Q. And what position do they say she moved
4 into?

5 A. I don't recall. I don't recall that.

6 Q. And did you ask them to show you anything
7 that showed that, any documentation?

8 A. That was part of what they were preparing
9 for for this particular deposition. That was not in
10 my lane of questioning that was presented.

11 Q. Did they tell you what year, approximately,
12 it was that she moved into a different position?

13 A. I'm not certain of the year, no, ma'am.

14 Q. Did they indicate to you if there were any
15 other individuals who were familiar with their
16 allegation that she was moved into a different
17 position that was unclassified?

18 A. I think -- I believe they mentioned Jim Beam
19 as having knowledge of that.

20 Q. Anyone else?

21 A. Not that I can recall, no, ma'am.

22 Q. Have you or anyone, to your knowledge,
23 checked through Mr. Beam's files and email server for
24 any documentation related to Ms. Hendrix?

25 A. I'm not aware if that's been done, no,

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1 ma'am.

2 Q. Who's ultimately responsible for providing
3 any investigation into the facts of this lawsuit?

4 MS. COUNCIL: Objection to the form of
5 the question.

6 MR. MARTIN: Objection.

7 THE WITNESS: That would be outside
8 my -- my purview.

9 BY MS. SCHWARTZ:

10 Q. You haven't had any discussions with the
11 director of HR about that?

12 A. No, ma'am.

13 MS. SCHWARTZ: I have no further
14 questions right now.

15 THE WITNESS: Yes, ma'am.

16 MS. SCHWARTZ: Which one of you is going
17 to question?

18 MR. MARTIN: Right now...

19 MS. SCHWARTZ: It's only one so...
20 That's the rules of taking a deposition.

21 MS. COUNCIL: I didn't say anything.
22 Just calm...

23 MR. MARTIN: Calm down, ma'am.

24 MS. SCHWARTZ: All right. I'm just
25 saying.

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1 MR. MARTIN: Calm down, ma'am.

2 EXAMINATION

3 BY MR. MARTIN:

4 Q. So, now, Mr. Merriweather --

5 A. Yes, sir.

6 Q. -- you were shown what was shown to be
7 Plaintiff's Exhibit No. 7.

8 Now, to your knowledge, was this document in
9 use during the time when Ms. Hendrix was employed with
10 the City of Atlanta?

11 A. Well, it wouldn't have been -- it wouldn't
12 have been Jeffrey Norman because I don't believe he
13 was the interim commissioner at -- at the time.

14 Q. So had you seen any documents to this nature
15 that had any other different commissioner's name on
16 there?

17 A. Yeah. I've seen similar documents, yes.

18 Q. Similar documents?

19 A. Uh-huh (affirmative).

20 Q. So, to your knowledge, was there a document
21 similar to this used?

22 A. There was a document similar to that, yes,
23 sir.

24 Q. Now, in regards to that, was that based on
25 policy or practice that this document was used?

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1 A. It was based on practice.

2 Q. Practice. Now, was this a long-standing
3 practice or was this something that was relatively
4 used -- relatively within recent times?

5 A. Can you clarify what you mean by that?

6 Q. Is this a document that would have been used
7 back in 2010?

8 A. Not very often, no.

9 Q. Would this have been a document that would
10 have been used back in 2017?

11 A. It could have been, yes.

12 Q. Could have been?

13 A. Could have been.

14 Q. But it's a document that's being used now?

15 A. No. Because it's just -- it's a -- it's a
16 practice, not a policy.

17 Q. Okay. Give me one second.

18 A. Uh-huh (affirmative).

19 Q. You had a chance to review Ms. Hendrix's
20 file, correct?

21 A. Yes, sir.

22 Q. Did you recall seeing any retention of
23 rights documents in Ms. Hendrix's file?

24 A. No, sir.

25 Q. And I may have asked this already, but

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1 there's nothing in the code that mandates this
2 document, am I correct?

3 A. No, sir.

4 Q. And this document P-7. When you reviewed
5 Ms. Hendrix's file, did you see anything in regards to
6 a Civil Service Board appeal?

7 A. No, sir.

8 Q. Did you see anything -- what about a
9 complaint?

10 A. No, sir.

11 Q. Did you see any documents where she
12 requested any kind of hearing with the Civil Service
13 Board?

14 A. No, sir, I didn't see anything like that.

15 Q. One second. Was the Civil Service Board
16 paused any time during or around December 2017?

17 A. No, sir.

18 Q. What about March 2018?

19 A. No, sir.

20 Q. What about at any time during 2018?

21 A. Not that I recall, no, sir.

22 Q. Now, in regards to the notice prepared for
23 adverse action, would that be prepared for an
24 unclassified employee?

25 A. No.

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1 Q. So that procedure that you outlined earlier
2 in your testimony, does that only apply to classified
3 employees?

4 A. Only applies to classified employees.

5 Q. So when you stated earlier that no adverse
6 action can be done upon an employee, like a supervisor
7 can't just pass it through, I believe was your
8 statement, was that only in regards to classified
9 employees?

10 A. Only in regard to classified employees.

11 Q. So in regards to an unclassified employee,
12 what is your understanding of that in regards to any
13 adverse action?

14 A. They're at will and they can -- we can
15 separate at any time and they can separate.

16 Q. If an employee wanted a Civil Service Board
17 hearing, could they just come straight to your office
18 to request one?

19 A. They -- they can make that request. They
20 could make the request.

21 Q. Now, what if they believe they're entitled
22 to one, can they just come straight to your office and
23 request one?

24 A. They could, yes.

25 Q. And then if they made a request, what would

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1 happen then?

2 A. If they made a request, the -- we would
3 require them to -- if it was for adverse action, if
4 it's a Civil Service Board request, we would require
5 them to submit their notice of final adverse action
6 along with their Civil Service Board appeal form, and
7 we would check to see if they were a classified or
8 unclassified employee to see if they have that actual
9 right.

10 Q. And where would you check to find out if
11 they were classified or unclassified?

12 A. Primarily it would be the ATL -- ATL Cloud
13 at this time. Oracle in the past. If there's any
14 kind of discrepancy, we would check their personnel
15 file.

16 Q. When you looked in Linda Hendrix's file, did
17 you see anything in regards to that where there was
18 any request made?

19 A. No.

20 Q. I want to show you what was Plaintiff's 8.
21 Do you recognize Plaintiff's 8? It's two
22 pages.

23 A. From what counsel showed me, yes.

24 Q. Now, with Plaintiff's 8, is it typical that
25 you see this document on a Gmail format?

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1 A. It's not.

2 Q. Is it typical where you see it with some
3 kind of email information at the top?

4 A. That's not familiar, no.

5 Q. That's not a City of Atlanta email up top,
6 is it?

7 A. It is not, no.

8 Q. Is that more of a personal email, you think?

9 A. It looks like a personal email.

10 Q. On the Oracle document here, do you see any
11 name on there? Take a look at that.

12 A. I don't see a name.

13 Q. Do you see anything that references that
14 that's Linda Hendrix?

15 A. No, sir.

16 Q. Now, on the position, it seems -- can you
17 read what the position was?

18 A. The position is data reporting analyst,
19 senior 4.

20 Q. Do we have a data reporting analyst, senior
21 4, position to your knowledge?

22 A. Not to my knowledge.

23 Q. Now, let me show you Plaintiff's No. 4.

24 A. Uh-huh (affirmative).

25 Q. And you've already identified Plaintiff's

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1 No. 4, am I correct?

2 A. Correct. Yes.

3 Q. And with that document, do you see the
4 person's name on that document?

5 A. I do.

6 Q. Does that document show -- what's listed as
7 the job title on that document?

8 A. Data reporting analyst, senior.

9 Q. Does it say senior 4?

10 A. No, sir.

11 Q. Now, can you say for certain that this is
12 actually an Oracle document?

13 A. I can't.

14 Q. Can you say for certain that this was even
15 generated from some Oracle function?

16 A. I can't say for certain, no, sir.

17 Q. So can you say for any reason why there may
18 be some discrepancy between whatever this Plaintiff's
19 No. 8 is versus Plaintiff's No. 4?

20 MS. SCHWARTZ: Object to the form. And
21 on top of it, there're two totally different
22 dates.

23 MS. COUNCIL: Can we not make speaking
24 objections, please?

25 BY MR. MARTIN:

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1 Q. Can you tell me the difference between the
2 two?

3 A. This is an actual TAD, Exhibit 4. Exhibit 8
4 looks like an Oracle printout, but it's -- I've never
5 seen it in this particular format and it doesn't have
6 a name that's visible that I can see.

7 Q. Okay.

8 MR. MARTIN: No further questions at
9 this time.

10 MS. SCHWARTZ: Just a few.

11 FURTHER EXAMINATION

12 BY MS. SCHWARTZ:

13 Q. Looking at Plaintiff's Exhibit 8, which I
14 think he may have just taken, so that's yours.

15 A. Okay.

16 MR. MARTIN: Found it.

17 BY MS. SCHWARTZ:

18 Q. Under position, what does it say the
19 position is?

20 A. Position, data reporting analyst, but the
21 rest is -- is cut off.

22 Q. On the --

23 A. Analyst, senior 4.

24 Q. Where do you see senior 4 under position?

25 A. Under position... Data reporting analyst,

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1 senior dot 4 right there.

2 Q. I see. In the position --

3 A. Uh-huh (affirmative).

4 Q. -- what's the position number?

5 A. 00020101.

6 Q. And is that not Ms. Hendrix's position?

7 MS. COUNCIL: Objection to the form of
8 that question.

9 But you can answer.

10 THE WITNESS: I believe it is, but I'm
11 not familiar with her position number.

12 BY MS. SCHWARTZ:

13 Q. You really have no idea, other than that it
14 looks like an Oracle document, as to whether it's
15 true, not true, or whatever?

16 A. I have no idea, yes, ma'am, that's correct.

17 Q. And you've never asked anyone about that
18 document, have you?

19 A. No, ma'am.

20 Q. And you've never asked anyone in your office
21 as to whether or not Ms. Hendrix came in asking for a
22 hearing, have you?

23 A. Repeat that again. I'm sorry.

24 Q. You've never asked anyone in your office
25 whether Ms. Hendrix came into your office--yours being

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1 human resources--and --

2 A. Sure.

3 Q. -- asked for a hearing?

4 MS. COUNCIL: Can you phrase it as a
5 question to the witness? Just for
6 purposes --

7 MS. SCHWARTZ: I don't need to.

8 MS. COUNCIL: -- of clarity?

9 MS. SCHWARTZ: I don't need to.

10 MS. COUNCIL: Well, I think what you're
11 saying is -- you're leading him. What I'm
12 saying is can you just phrase it as a
13 question for purposes of the record being
14 clear? So he can understand your question.

15 BY MS. SCHWARTZ:

16 Q. Have you ever asked --

17 MS. COUNCIL: Thank you.

18 BY MS. SCHWARTZ:

19 Q. -- individuals in your office whether or not
20 Ms. Hendrix came by your office and asked for a
21 hearing?

22 A. I did. I asked Ms. Harmon.

23 Q. Besides Ms. Harmon?

24 A. Besides Ms. Harmon, no.

25 Q. And there are other people who work in your

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1 office?

2 A. They are -- there are, yes.

3 Q. And she could have made that request to
4 anyone?

5 A. All those requests would have come back to
6 me, to our office -- to our group.

7 Q. Not if they were made to the commissioner,
8 correct?

9 A. No. Even if they were made to the
10 commissioner, they would still come back to us because
11 we handle all the CSB matters.

12 MS. SCHWARTZ: Let's mark this.

13 (Marked for identification purposes,
14 Plaintiff's Exhibit No. 10.)

15 BY MS. SCHWARTZ:

16 Q. Is this the equivalent form that was used
17 prior to the current mayor being in office?

18 A. It look like an equivalent form, yes, ma'am.

19 Q. So you used employee acceptance of
20 unclassified position forms before, correct?

21 A. Yes, ma'am.

22 Q. And, specifically, this one states that she
23 was serving at the pleasure of the appointing
24 authority and it's dated with her signature, correct?

25 A. Yes, ma'am.

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1 Q. And did you discuss with Marcia Brown that
2 she went from classified to unclassified?

3 A. Ms. Brown or Ms. Hendrix?

4 Q. Ms. Brown.

5 A. Did I discuss with her about her going...

6 Q. That's correct.

7 A. No, ma'am.

8 Q. Did she tell you that when she originally
9 transferred from classified to unclassified she had
10 retained rights?

11 MS. COUNCIL: Objection to the form of
12 the question.

13 THE WITNESS: Was not aware of that, no,
14 ma'am.

15 MS. SCHWARTZ: I think that's all we
16 have.

17 MR. MARTIN: I do have two follow-up.
18 Which I'll be very brief.

19 FURTHER EXAMINATION

20 BY MR. MARTIN:

21 Q. Earlier you just stated that if a letter was
22 to go -- if a person was requesting with the Civil
23 Service Board to the commissioner --

24 A. Uh-huh (affirmative).

25 Q. -- you stated that it would come

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1 automatically to you?

2 A. It would.

3 Q. So in regards to the Civil Service Board,
4 could you clarify, is that -- you're the one that
5 determines whether or not they go before the Civil
6 Service Board?

7 A. Well, we act on behalf of the commissioner
8 of HR.

9 Q. So the commissioner of HR wouldn't
10 necessarily see or receive those letters, it would be
11 just -- basically it'll go straight to your office?

12 A. Right. And if he received something or she
13 received something, it would then be forwarded to us
14 because we would be -- we're the -- the lead people
15 that handle those appeals.

16 Q. And in regards to -- when did you start
17 working with the city?

18 A. 2010.

19 Q. So in regards to Plaintiff's, I guess, 10?

20 A. Uh-huh (affirmative).

21 Q. Is this 10?

22 A. 10, yes, sir.

23 Q. Okay, 10. I didn't write it on there. What
24 was the date that Marcia Brown signed this?

25 A. The 15th. June 15th, 2004.

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1 Q. Were you working with the city at the time?

2 A. I was not.

3 Q. So would you have any occasion to talk to
4 her about this?

5 A. No, sir.

6 MR. MARTIN: No further questions.

7 (Signature reserved.)

8 (Deposition concluded at 4:08 p.m.)

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E R R A T A S H E E T

I, the undersigned, JAMES MERRIWEATHER, do hereby certify that I have read the foregoing deposition and that, to the best of my knowledge, said deposition is true and accurate (with the exception of the following corrections listed below.)

PAGE/LINE	CORRECTION (and reason for correction)
_____ / _____	
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Notary Public	Signature
Date _____	

My Commission Expires:

C E R T I F I C A T E

STATE OF GEORGIA:

COUNTY OF FULTON:

I hereby certify that the foregoing proceedings were reported as stated in the caption and the questions and answers thereto were reduced to writing by me; that the foregoing 67 pages represent a true and complete transcript of the evidence given on March 5, 2020, by the witness, JAMES MERRIWEATHER, who was first duly sworn by me.

I certify that I am not disqualified for a relationship of interest under O.C.G.A. 9-11-28(c); I am a Georgia Certified Court Reporter here as an independent contractor of Q&A REPORTING SERVICES, INC.; I was contacted by Q&A REPORTING SERVICES, INC., to provide court reporting services for this proceeding; I will not be taking this proceeding under any contract that is prohibited by O.C.G.A. 15-14-37(a) and (b) or Article 7.C of the Rules and Regulations of the Board; and by the attached disclosure form I confirm that Q&A REPORTING SERVICES, INC., is not a party to a contract prohibited by O.C.G.A. 15-14-37 or Article 7.C of the Rules and Regulations of the Board.

This, the 17th day of March, 2020.



Jo Tomoff Fischer, RMR
CCR No. B-924
Notary Commission Expires 8-21-2020

1 COURT REPORTER DISCLOSURE STATEMENT
2 STATE OF GEORGIA // COUNTY OF FULTON
3 DEPOSITION OF JAMES MERRIWEATHER

4 I, JO TOMOFF FISCHER, Certified Court Reporter,
5 do hereby disclose pursuant to Article 10.B of the
6 Rules and Regulations of the Board of Court Reporting
7 of the Judicial Council of Georgia that I am a Georgia
8 Certified Court Reporter; I was contacted by Q&A
9 REPORTING SERVICES, INC., to provide court reporting
10 services for this proceeding; I will not be taking
11 this deposition under any contract that is prohibited
12 by O.C.G.A. 15-14-37(a) and (b) or Article 7.C of the
13 Rules and Regulations of the Board; and I am not
14 disqualified for a relationship of interest under
15 O.C.G.A. 9-11-28(c).

16 There is no contract to provide reporting
17 services between myself or any person whom I have a
18 principal and agency relationship nor any attorney at
19 law in this action, party to this action, party having
20 a financial interest in this action, or agent for an
21 attorney at law in this action, party to this action,
22 or party having a financial interest in this action.
23 Any and all financial arrangements beyond my usual and
24 customary rates have been disclosed and offered to all
25 parties.

16 This, the 17th day of March, 2020.



20 _____
21 Jo Tomoff Fischer, RMR
22 CCR No. B-924
23 Notary Commission Expires 8-21-2020
24
25